Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Matter of	)	
Digital Television Distributed Transmission System Technologies	)	MB Docket No. 05-312

To: The Commission

COMMENTS OF THE COALITION FOR DTS

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Pursuant to Section 1.415 of the Commission's Rules, the undersigned television broadcasters and equipment manufacturer, collectively referred to as the Coalition for DTS ("Coalition"), hereby submit the following comments in response to the Commission's Notice of Proposed Rulemaking (*"NPRM"*) in the above-captioned proceeding.[1] The Coalition applauds the Commission for issuing its *NPRM* and urges it to resolve any outstanding issues related to the use of Distributed Transmission System ("DTS") technology quickly and adopt final rules authorizing the use of this exciting new technology.

INTRODUCTION & SUMMARY

The Coalition members represent a cross-section of the television broadcasting marketplace and include: Tribune Broadcasting Company, Media General, Inc., Clear Channel Television, Meredith Broadcast Group, California Oregon Broadcasting, Inc., Holston Valley Broadcasting Corporation, Reading Broadcasting Company, Oklahoma Land Company LLC and Axcera, LLP. Although the Coalition members operate in television markets of vastly different sizes and geography, they have joined together in this proceeding because they believe that DTS

[1] *See* Clarification Order and Notice of Proposed Rulemaking, *Digital Television Distributed Transmission System Technologies*, MB Docket No. 05-312 (rel. Nov. 4, 2005).

technology has great promise to improve significantly the over-the-air television service provided to consumers. While the Coalition does not believe that DTS is a panacea that will solve every DTV technical issue that arises, it strongly believes the FCC should authorize the use of DTS quickly to provide another option for broadcasters to serve their markets.

As demonstrated herein, the Coalition wholeheartedly supports the Commission's proposal to give full-power digital television stations the option to use DTS technologies to provide primary service to their authorized coverage areas. By taking this action, the Commission will be authorizing a technology that can benefit consumers in a number of important ways, including increasing signal strength inside a station's authorized service area, enhancing the likelihood of indoor, set-top reception, permitting the delivery of over-the-air service to underserved viewers, and enhancing the reliability and reach of new, low-cost multichannel video programming distribution services to compete with cable and DBS. Most importantly, DTS can provide these benefits without increasing, and in most cases decreasing, the level of interference in a market.

To maximize these benefits to consumers, the Coalition urges the Commission to reconsider its tentative conclusion restricting stations using DTS from exceeding the service area of a hypothetically maximized single transmitter operation. Instead, once the transition to DTV is finished or when the FCC lifts the current freeze and permits single-transmitter DTV stations to increase their service areas, the Commission should allow stations using DTS to serve their entire designated market areas (DMAs), provided the proposed DTS networks comply with the applicable interference and service area requirements designed to prevent "cherry-picking" and encroachment into adjacent DMAs. With these important limits, the FCC can authorize broadcasters to provide over-the-air service to their entire DMAs without undermining the

Commission's localism policy. For these reasons, the Coalition submits that the prompt adoption of rules authorizing the use of DTS is absolutely in the public interest and urges the Commission to allow stations using DTS to expand coverage throughout their DMAs to allow consumers to enjoy the full benefits that this new technology can provide.

I. FINAL RULES ALLOWING THE USE OF DTS TECHNOLOGIES WILL ACCELERATE THE DTV TRANSITION AND PROVIDE NUMEROUS BENEFITS IN THE PUBLIC INTEREST.

The Commission should adopt final rules authorizing the use of DTS because doing so will provide local consumers with a number of significant benefits. A DTS network can provide stronger, more uniform signals inside a station's authorized service area, including increased signal strength inside homes, because DTS allows broadcasters to locate transmitters closer to receivers.[2] Increasing signal strength inside an authorized service area is important because it is commonly understood in the industry that the FCC's planning factors underestimated the signal strength needed to provide DTV service.[3] In addition, enhancing the likelihood of indoor reception will remain extremely important because approximately 15 percent of U.S. households do not subscribe to cable or DBS and many homes subscribing to cable or DBS service have second, third or fourth sets that are not connected.[4] In a report prepared for Congress on over-the-air television, the Media Bureau staff recently noted that using NAB statistics the estimated number of television sets across the country relying on over-the-air reception is approximately 73 million.[5]

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[2] While some DTS broadcasters may not deploy networks that will maximize indoor reception at the outset, DTS technology gives them the flexibility to fill in this coverage in future.

[3] In addition to needing more power to provide outdoor service, stations need significantly more power to provide reliable, indoor set-up reception.

[4] *See* Media Bureau Staff Report Concerning Over-the-Air Broadcast Television Viewers, MB Docket No. 04-210, pp. 3-4, ¶ 7, released February 28, 2005 ("Media Bureau OTA Report").

[5] *Id.* pp. 4-5., ¶ 9.

DTS can also be used by stations currently operating with maximized facilities to provide service to portions of their service area that do not currently receive an adequate signal due to terrain shielding or other impediments to reception. This gap filling coverage is important because it allows stations to deliver service to underserved or non-served households.

DTS can also help advance the DTV transition by providing a cost-effective alternative to building-out a station's authorized DTV service area. By deploying multiple transmitters throughout its service area, no single transmitter will typically be relied upon to serve a very large area. For this reason, the power levels of individual distributed transmitters will often be significantly lower than the power level needed to provide maximized service with a single transmitter.[6] Similarly, because service from any one DTS transmitter does not have to be maximized, stations using the technology do not need to maximize the height of their transmitter antennas. With reduced power levels and lower transmitting heights, DTS can thus reduce overall interference while simultaneously improving coverage inside a station's authorized service area – results that obviously represent a more efficient use of spectrum. Indeed, this was the basis on which the Commission's Spectrum Policy Task Force recommended that DTV broadcasters be allowed to use to use single frequency, DTS technologies within their authorized service areas.[7]

Because transmit antenna heights do not need to be maximized, DTS stations may be able to utilize some of the thousands of smaller towers already in place to support other services such as cellular or PCS services. By allowing the use of these existing towers, stations can avoid the often enormous capital costs to build, maintain and/or rent very tall towers in order to build-out

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[6] Single transmitter stations must increase their power levels dramatically to provide adequate fade margin to have a viewable signal at the edge of the station's maximized service area.

[7] *See* Spectrum Policy Task Force Final Report, ET Docket No. 02-135, § IX.A.2.a (rel. Nov. 15, 2002).

their DTV service areas, especially including maximized DTV service areas. Moreover, lower power DTS transmitters require smaller antennas and transmission lines, factors that will reduce significantly the incremental windload a DTS-DTV operation will cause to an existing tower. Thus, DTS operations can reduce the likelihood that expensive, time-consuming tower strengthening work will be needed and can also expand the number of towers that can accommodate a DTS-DTV operation.

The combination of less expensive, lower-powered transmission equipment, lower tower costs, lower demands for electricity and lower costs for transmitter building room expansion from a possible DTS network could reduce significantly the cost to build-out a station's DTV service area (as well as the ongoing operating costs of the DTV station). In this way, DTS can advance the DTV transition by allowing more broadcasters, including small business broadcasters, to build-out or expand their DTV service areas.

In addition to allowing more stations to build out their DTV service areas, DTS can facilitate a smoother transition around the time of the analog shut down for stations moving their DTV operations to new channels (*i.e.,* channels other than their current DTV channel). If a station cannot re-use its existing digital transmission equipment on its new channel, rather than building-out a new, high-powered system at its main site, it can build out a DTS network on its new DTV channel throughout the market. By doing so, the station would avoid the expense of a new maximized facility as well as the period when it would be off-the-air or operating at much lower power while the replacement high-powered equipment was being installed and tested. The Commission should not underestimate the value of continued DTV service once analog transmissions end. Any regulatory step that reduces by even a small amount the potential number of complaints from the public should obviously be put in place as soon as possible.

Finally, DTS is expected to provide these benefits without the need for additional receive equipment at the consumer's home, cable headends or satellite receive facilities beyond the equipment already in use. In fact, DTS should allow the existing equipment to function more reliably. As noted above, DTS can provide more uniform signal levels throughout a station's service area, which should also ensure delivery of a reliable signal to the cable headend or satellite receive facility. In the unlikely event that some additional equipment at the headend or receive facility is needed, the Commission's current rule allowing stations to provide this additional receive equipment at their expense to the cable system or satellite provider should apply.

II. THE COMMISSION SHOULD PERMIT STATIONS USING DTS TO SERVE THEIR ENTIRE DESIGNATED MARKET AREAS (DMAs) PROVIDED THAT INTERFERENCE AND MINIMUM SERVICE REQUIREMENTS ARE SATISFIED.

A. The Use of DTS to Provide Coverage to The Entire DMA Is In The Public Interest.

When the DTV transition has ended, broadcasters using DTS should be permitted to expand their service areas to cover their entire DMAs, provided that the proposed DTS network complies with the applicable interference and service requirements described below.[8] In the event the Commission lifts the freeze and allows single-transmitter DTV stations to expand their service areas before the transitions ends, stations using DTS should be permitted to expand their service areas at the same time.

Greater service area coverage for stations using DTS will result in significant benefits to consumers without undermining the Commission's bedrock commitment to localism. As noted

[8] *See NPRM*, ¶ 1 & n. 14 ("For purposes of this discussion, we anticipate that most stations would focus on DTS operations that would be employed after we lift our current freeze on the filing of most applications, which was imposed until we complete the new DTV Table of Allotments.").

above, DTS can be used to increase the signal level inside a station's authorized service area and enhance the likelihood of indoor reception without increasing (and in many cases decreasing) overall interference in a market.

There are several additional consumer benefits that will be achieved if a station using DTS were permitted to serve its entire DMA. Permitting stations using DTS to provide coverage throughout a DMA would permit broadcasters to serve all of the households in a given market that do not subscribe to multichannel video program distributors ("MVPDs"). Under the FCC's proposal, stations currently serving major population centers will not be permitted to expand their over-the-air service to viewers in rural areas or smaller, geographically-distant cities. The Coalition's DMA proposal removes this restriction and enables these stations to increase over-the-air service to these underserved viewers. Regardless of the location of the station in the market, increasing the level of over-the-air service to consumers is clearly in the public interest. At the same time, this increased over-the-air coverage from stations serving major population centers will not undermine the financial base for stations licensed to these rural areas or smaller, geographically-distant cities within the same DMA. Local advertisers in these areas will not pay the advertising rates demanded by stations serving major population centers to reach viewers in rural or geographically-distant areas.

In addition, by allowing stations using DTS to expand over-the-air service throughout their DMAs, the Commission will enable broadcasters to provide a more competitive alternative MVPD service for consumers. Expanded service areas would enable services such as USDTV to reach viewers in rural and/or geographically-distant, smaller cities – viewers more likely to be captive to only one MVPD provider. Combined with the promise of enhanced indoor delivery,

DTS could significantly enhance consumer welfare by giving these captive viewers a more competitive alternative for multichannel video programming.

B. Under the Coalition's Proposal, DMA-Wide Service Would Only Be Permitted Subject to Specific Interference and Service Requirements.

Under the Coalition's proposal, a station using DTS would be permitted to provide service throughout its DMA provided that four separate interference or service restrictions are satisfied. Two of these limits already apply to single-transmitter operations while the two other limits are new and would be applied only to stations using DTS.

First, any proposed DTS service area expansion would be subject to the DTV-into-DTV interference standard adopted by the Commission for post-transition DTV operations. The rationale behind this limitation is obvious – no additional interference should be allowed from stations using DTS beyond what stations using single transmitters are permitted under the Commission's rules.[9]

Second, any station proposing a DTS network must provide the requisite signal strength to its City of License. Again, this limit will ensure that stations using DTS comply with the same limits applied to single-transmitter stations.

To respond to the Commission's concerns about service area expansions, the Coalition's proposed DMA rule also requires a station using DTS to satisfy two additional limits:

Third, any proposed DTS network must provide DTV service (as defined in the Commission's rules) to the larger of: (i) the station's DTV allotment service area; or (ii) the station's licensed DTV service area. The rationale behind this limitation is to prevent a station assigned to rural or geographically-distant regions in a DMA from "cherry-picking" by abandoning viewers in less populated or less affluent areas and commencing service in wealthier

[9] 47 C.F.R. § 73.622(e)(3).

population centers. The DTV allotment was selected because the allotment service area was originally issued by the Commission to enable broadcasters to replicate their analog service areas. Thus, under the Coalition's proposal, viewers currently receiving analog service would be guaranteed to receive DTV service from any station proposing to use DTS.

If, however, a station built and licensed a DTV operation with a service area that exceeded its DTV allotment, the station proposing to use DTS would always be required to serve its licensed DTV service area. Again, the rationale behind this limit is to prevent a station using DTS from abandoning viewers that it was already serving. Taken together, these restrictions would ensure that no viewers currently receiving analog or digital service are abandoned by any station using DTS technologies.[10]

Fourth, a proposed DTS network must be designed to provide service only to the station's DMA. This limit would prohibit DMA-creep where a station uses DTS to deploy service to an adjacent DMA. Because the Coalition recognizes that minor contour extensions into an adjoining DMA may be necessary to provide effective service within a station's DMA, the Coalition recommends that the Commission permit the Media Bureau staff to approve waiver requests demonstrating that a station's minor coverage area extension into an adjacent DMA is needed to provide meaningful service inside its DMA. Such a showing could be made using a terrain based propagation model such as OET 69. The Coalition also urges the Commission to adopt a rebuttable presumption that a contour extension into an adjoining DMA is in the public interest if: (i) using a terrain-based propagation model, the population covered by the DTS

[10] By contrast, a station proposing to use DTS should not be required to provide service to the coverage area authorized in a construction permit that has not been built-out and licensed. Because stations are not obligated to build-out every approved construction permit, service to the public should not be assumed with a granted construction permit unless and until the facilities are built-out and licensed.

network in the adjacent DMA is 1 percent or less of the adjacent DMA's total population; or (ii) the coverage provided in the adjacent DMA serves either a white or gray area. Under the waiver policy, any coverage provided by a station outside of its DMA would be secondary and subject to displacement by any full-power station.

C. The Commission's Rationale For Rejecting The DMA Proposal Is Flawed.

Among the Commission's reasons for rejecting the DMA proposal is that service in geographically-distant areas "could be inconsistent with [the Commission's] traditional focus on localism." *NPRM*, ¶ 18. Such concerns, however, are misplaced. The Commission's rules require a station to serve its community of license regardless of the size of its service area. Nothing in the Coalition's DMA service area proposal changes this requirement. Like today, if the Commission adopts the proposed DMA-wide service area, a station's local service will presumably be evaluated at the time of its license renewal.

Moreover, expanding over-the-air service throughout the DMA will not create a conflict with the Commission focus on localism. Because most stations are carried throughout their DMAs by cable and DBS systems (where available), the conflict between market-wide service and localism already exists today. Most broadcasters provide local service because this service distinguishes them from nationally-programmed cable networks carried on these MVPDs. Thus, as demonstrated here, the Coalition's DMA service proposal does not threaten the Commission's commitment to localism. It only expands the ability of stations to provide free, over-the-air service to households that do not subscribe to an MVPD service.

In the *NPRM*, the Commission concluded that the DMA proposal would "reduce opportunities for new stations in a manner inconsistent with [its] TV channel allotment and licensing policies." *Id.*, ¶ 18. The Commission also rejected the DMA approach on the ground that it would "subvert [its] current licensing rules by allowing a station to obtain the rights to

serve a new community where a new station might otherwise be licensed and reduce the availability of channels for new stations." *Id.*

These concerns are also misplaced. Expansion of service areas by stations using DTS will not preclude new stations from entering the market because DTS expansion will occur on a station's already occupied channel. In almost all circumstances, new full-power television station entrants would not be permitted to commence operations on these occupied channels regardless of whether DTS was authorized/used because the interference contours of the incumbent station would cause a destructive interference to the hypothetical service area of any new full-power station.

Finally, although the Coalition recognizes the Commission's concerns about preventing "cherry-picking," the signal strength and coverage limits identified above will ensure that stations cannot use DTS to abandon viewers currently receiving service. In fact, by requiring stations using DTS to provide service to their initial DTV allotment, the Commission will impose a more stringent requirement on stations using DTS than on those using single transmitters. In building out DTV facilities, including maximized DTV facilities, the only service area requirement the Commission imposed on single-transmitter stations was to provide the requisite signal strength to the city of license.[11] Single-transmitter stations are not required to provide service to their entire DTV allotment even if they have filed for a so-called maximized service area. Thus, the Coalition's DMA proposal provides better protection to existing analog viewers than the limits currently in place for single-transmitter stations.

[11] 47 C.F.R. § 73.625.

III. THE COMMISSION SHOULD ALLOW CLASS A, LPTV AND TRANSLATOR STATIONS TO USE DTS.

The Coalition agrees with the Commission's tentative conclusion to permit Class A, LPTV and TV translator stations to use DTS technologies, provided this action does not interfere with the roll-out of DTS by full-power stations. Specifically, once the Commission completes this proceeding and authorizes the use of DTS by full-power stations, it should commence a similar proceeding to consider the policy issues associated with the use of DTS by Class A, LPTV and translator stations. The use of DTS by these stations may generate some of the same public interest benefits identified above for full-power stations. In particular, the use of DTS by a group of commonly-owned translators could enable the delivery of service on a single channel, a result that is spectrally efficient.

CONCLUSION

For the foregoing reasons, the Coalition for DTS urges the Commission to adopt rules authorizing the use of DTS technologies quickly and to permit the stations using DTS to serve their entire DMAs provided that the interference and service requirements described herein are satisfied.

Respectfully submitted,

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